



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2789-00

21 July 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 23 January 1953 for three years at age 18. The record reflects that you served without incident until 22 June 1953. On that date, you made a statement that you allowed a man, whose name you did not know, to perform a homosexual act on you. You stated that there were three more homosexual acts during the month with this same individual. The following day, you were examined by the battalion surgeon who opined that you should be classified as a class III homosexual and discharged from the service.

On 24 June 1953 the commanding officer recommended that you be separated with an undesirable discharge by reason of unfitness. A board of officers was convened in Headquarters, Marine Corps on 30 June 1953 and recommended an undesirable discharge by reason of unfitness. The Commandant of the Marine Corps approved the recommendation and you were so discharged on 22 July 1953.

In its review of your application the Board carefully weighed all potentially mitigating factors such your youth and immaturity, limited education, and the fact that it has been more than 49 years since you were discharged. The Board particularly noted your contention that you were told that if you said that you were seduced by some homosexuals, you could get a discharge and would not have to go to Japan. You claim that you did not realize how many types of discharges there were, or that by telling the commanding officer of your involvement with a homosexual, you would get one that was undesirable. You claim that you lied in order to get out of going to Japan and that at no time were you ever seduced or involved with a homosexual.

The Board is not sympathetic to individuals who obtain discharges through fraudulent means. Further, the Board has no way of determining what your true statement is, the one you are making now, or the statements you made to extricate yourself from your military commitment. It is well established in law that an individual who perpetrates fraud in order to be discharged should not benefit from the fraud when it is later discovered. The Board believed your unwillingness to fulfill your military commitment placed an unfair burden on your fellow Marines who had to serve in your place. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director